THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition Nos.11450 &10778 of 2007

COMMON JUDGMENT:

Dated 07-06-2007

Between:

Penmetsa Laxmi Prasada Raju and others

…Petitioners

And

The Government of A.P.,
rep. by its Principal Secretary and others

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition Nos.11450 &10778 of 2007

COMMON JUDGMENT:

The term of the Managing Committee of the Kovvur Co-operative Urban Bank Limited (for short '*the Bank*'), was to expire on 21-05-2007. The District Collector and Election Authority, West-Godavari, initiated steps, well in advance, to conduct the elections to the Committee. Through his proceedings dated 04-04-2007, the District Collector appointed the Sub-Divisional Co-operative Officer, Polavaram, as the Election Officer, and the election programme was also notified.

The Election Officer addressed letter to the Chief Executive Officer (CEO) of the Bank, to furnish necessary records, including the voters' list. The CEO in turn, published a provisional voters' list on 14-04-2007, and after inviting claims and objections, the final voters' list was communicated to the Election Officer, on 23-04-2007. The election notification was issued on 02-05-2007, specifying that the polling, if necessary, would be conducted on 20-05-2007.

For the posts of 11 Directors, as many as 45 nominations were received, within the stipulated time, and 25 of them have withdrawn, on 13-05-2007. For four wards, only one valid nomination remained, and the contestants were declared as elected. The polling was to take place on 20-05-2007. On 19-05-2007, the Government of Andhra Pradesh, through the Principal Secretary, Co-operation Department,

directed stay of the elections. These writ petitions are filed assailing the action of the Government in staying the elections.

Petitioners contend that there was absolutely no basis for staying the elections, and the impugned order was passed in utter violation of Rule 22-C of the A.P. Co-operative Societies Rules, 1964 (for short '*the Rules*').

On behalf of the Government, counter affidavit is filed, narrating the circumstances that led to the issuance of the impugned order. It is stated that, complaint was received from one Mr.Navudu Satyanarayana, one of the respondents to the writ petitions, and certain others, and with a view to examine the complaint, the elections were stayed.

Navudu Satyanarayana has also filed counter affidavit, stating that he brought several irregularities, in the matter of preparation of the voters' list; to the notice of the Government, and on being satisfied that there exists valid ground, the impugned orders were passed.

Sri M.S.Ramachandra Rao and Smt. Bobba Vijaya Lakshmi, learned counsel for the petitioners, submit that the election programme went on smoothly, without any impediment, or obstruction, up to the date of polling, and with a view to create hurdle, frivolous applications were filed, and that the Government had passed orders, without examining the legal or factual position.

Learned Government Pleader for Co-operation, and
Sri Ghanta Rama Rao, learned counsel for the complainant, on the other hand, submit that the nature of allegations made, as regards the correctness of the voters' list, are serious in nature, and that no exception can be taken to the impugned orders.

With a view to impart and preserve democratic spirit in the Co-operative institutions, several provisions are incorporated in the Co-

operative Societies Act and the Rules made thereunder. Detailed procedure is prescribed for conducting the elections. The purport of the said provisions, as well as the precedents rendered by various Courts, is to the effect that the election process must be permitted to go on, as far as possible, and it must be left to the effected persons, to pursue the remedies in accordance with law. The possibility of emerging the law and order problems, or natural calamities, was contemplated in the process of election. Rule 22-C of the Rules, deals with such contingencies. It empowers the Government to postpone the elections under three circumstances, *viz.,* 1) breakdown of law and order, affecting peaceful and lawful conduct of elections, 2) natural calamity, that prevents the conduct of elections, and 3) reasonable apprehension, that voters will not be allowed to vote frankly and freely. Clause (b) of

Rule 22-C (1) mandates that, whenever any order is passed, directing postponement of elections, it must clearly specify the grounds for postponement. I n ***M.Ramachandra Reddy and others v. Government of A.P***.[1], this Court held that an order passed by the Government, directing postponement of elections, without specifying the grounds; cannot be sustained in law. In ***M.A.R.V.S. Sai Babu v. Commissioner and Registrar of Co-operative. Societies***[2]***,*** a Division Bench of this Court held that the election to a

Co-operative Society cannot be postponed on the grounds of irregularities in the voters' list.

Reverting to the facts of the case, on the basis of a complaint/representation made by Navudu Satyanarayana, who is impleaded as 7th respondent in W.P.No.11450 of 2007, the

1st respondent passed an order dated 19-05-2007, to the following

effect:

> "The attention of the Commissioner for Cooperation and Registrar of Cooperative Societies, A.P., Hyderabad is invited to the reference cited (copy enclosed). He is informed that the elections to the subject committee of the Kovvur Cooperative Urban Bank Ltd., Kovvur of West Godavari District are hereby postponed until further orders.
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> 2. He is also requested to intimate the action initiated in response to the proceedings No.130 of 2006A, dt.22-1-2006 to District Cooperative Officer, Eluru and send his report along with connected records immediately".

From a perusal of this order, it is evident that no ground, much less the one, specified in Rule 22-C of the Rules, is mentioned in it. The election programme, which was almost at the verge of conclusion, was interdicted on the basis of certain vague and unspecified allegations made by the 7th respondent. The impugned order is not only contrary to the letter and spirit of Rule 22-C of the Rules, but also the law laid down by this Court. The election programme, in which hundreds of members have participated; cannot be stalled, to satisfy the whims of one or two individuals, particularly when no grounds, recognized in law, existed. The 1st respondent ought to have examined the matter with reference to the provisions of the A.P. Co-operative Societies Act, and ensure that the democratic process is not interfered with, to satisfy the whims of selected individuals.

The writ petitions are accordingly allowed, and the impugned order is set aside. The Election Officer is directed to take immediate steps, to ensure that the election programme is resumed, from the stage at which it was stopped; and concluded at the earliest.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.07-06-2007.

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[1] 2006 (2) ALD 296

[2] 1999 (2) ALD 319 (DB)